the same error notification function for its own retail representatives -- data that BellSouth has refused to provide. As a result, BellSouth cannot meet its burden of proof on this issue.

36. Timely notice of order rejections is particularly important to the CLECs' ability to serve their customers because orders cannot be corrected and resubmitted by the CLECs until the CLEC is notified of errors.[66] If CLECs do not receive notice of order rejection until hours or even days after their orders are submitted to BellSouth, as BellSouth's reported performance data show to be the case,[67] while BellSouth's own retail representatives receive such notice within seconds,[68] CLECs will be at a severe competitive disadvantage.

---

[66] *See BellSouth South Carolina Order*, ¶ 117; *BellSouth Louisiana Order*, ¶ 32.

[67] Although BellSouth is supposed to provide notice of order rejections within one hour of the receipt of the order (*see* AT&T-BellSouth Agreement, Attachment 12, p. 5), BellSouth's performance data show that it usually does not provide notice of order rejection to CLECs until ***days*** after its receipt of CLEC orders. *See* Stacy Performance Measures Aff., Ex. WNS-3, Reject Distribution & Average Interval Report.

[68] *See BellSouth South Carolina Order*, ¶ 118 ("there is evidence that BellSouth's retail operations . . . receive the equivalent of an error notice between a few seconds to thirty minutes after entering an order"); *BellSouth Louisiana Order*, ¶ 33 (same); *Ameritech Michigan Order*, ¶ 188 ("order rejection notices generated electronically . . . should be relatively instantaneous").

E. Percent Rejected Service Requests

37. BellSouth also fails to provide comparative data for its measurement of the percentage of service requests rejected by its systems.[69] As discussed above, BellSouth's systems clearly perform the same functions of reviewing and rejecting orders that do not meet system requirements for both CLEC orders and BellSouth's own retail orders. Without comparative data showing the percentage of service requests submitted by BellSouth's own retail representatives that are rejected by BellSouth's systems, it cannot be determined whether the CLEC data reported by BellSouth for this measure represent parity of performance for CLECs.

F. Number Of Service Requests Per Order

38. The Commission has also tentatively concluded that incumbent LECs should be required to report the average number of service requests submitted per order both for CLECs and for their own retail operations,[70] and this measurement is included in the performance measurements that BellSouth bound itself to provide in its Louisiana SGAT.[71]

---

[69] *See* Stacy Performance Measures Aff., Ex. WNS-1, p. 5 (asserting "BST retail report not applicable" to measurement of percent rejected service requests).

[70] *See Performance Measurements NPRM*, ¶ 76 & p. A8.

[71] *See* BellSouth's Revised Attachment I to Louisiana SGAT, ATTACHED to BellSouth's Second Section 271 Application for Louisiana at Appendix C-1, Tab 144, Service Quality Measurements, p. 6.

Nevertheless, in its application in this case, BellSouth has omitted this measurement entirely from its list of proposed Service Quality Measurements. Further, even though BellSouth has previously included data for this measurement in submissions to state commissions, no such data is submitted with its application here. BellSouth thus appears to have abandoned this measure despite its inclusion in the SGAT. Without data showing the number of attempts required both by CLECs and BellSouth's own retail representatives before they are able to enter an order successfully into BellSouth's ordering and provisioning systems, it cannot be determined whether BellSouth is providing parity of performance for CLECs.

G. Average Time For Coordinated Customer Conversions

39. The Georgia Public Service Commission has specifically required BellSouth to provide data with respect to BellSouth's time for providing loop cutovers, including number portability, for CLEC customers.[72] Similarly, this Commission has tentatively concluded that all BOCs should be required to measure and report "the average time it takes to disconnect an unbundled loop from the incumbent LEC's switch and cross connect it to a competing carrier's equipment with and without number portability."[73] This information

---

[72] *Georgia Performance Measurements Order*, pp. 25-26.

[73] *See Performance Measurements NPRM*, ¶ 57. *See also* Commission Recommendations, *Investigation of Southwestern Bell Telephone Company's Entry Into the Texas InterLATA Telecommunications Market*, PUC Project No. 16251 (adopted May 21, 1998) ("*Texas PUC Order*, p. 11 (finding that "a measure reflecting coordinated conversions should be

(continued...)

is particularly important because the customer is without service during the cutover. The time that should be measured here includes two different tasks -- (1) the disconnection of the loop serving the customer from BellSouth's switch port and its connection to the CLEC's facilities, and (2) the entry of the correct information into BellSouth's databases so that calls to the customer are properly routed to the CLEC's switch. Both of these steps must take place at nearly the same time if the customer is to avoid an extended service outage.

40. Once again, BellSouth states that this measurement has not yet been developed by BellSouth. Thus, BellSouth states in one exhibit that "BellSouth is currently in the process of developing this measurement and is committed to adding this measurement to the Service Quality Measurements later this year."[74] And in another exhibit, BellSouth states with respect to coordinated customer conversions that: "Specific state and/or functions (with & without LNP) not available at this time. The process to track and report this data on a monthly basis is under development."[75]

41. Notwithstanding these statements that its coordinated customer conversions measure remains under development, BellSouth inserts into its May 1998 report a

---

[73] (...continued)
developed").

[74] Stacy Performance Measurements Aff., Ex. WNS-2, pp. 1 & 7 note 1.

[75] Stacy Performance Measurements Aff., Ex. WNS-3, Coordinated Customer Conversions Report, note 1.

"total" figure, which it says was calculated for the month of March, of 5.80 minutes.[76] BellSouth provides no explanation anywhere in its application as to the source of this figure or how it was obtained, a particularly troubling omission since all of the constituent parts that would go to make up this "total" are shown as blanks. In these circumstances, BellSouth has not met its burden of proof, and its reported data should be disregarded.

42. Also, BellSouth again takes the position with respect to this measurement that "no [BellSouth] analog exists,"[77] thereby precluding any comparison between BellSouth's performance for CLECs and its performance for itself. Appropriate analogs for coordinated customer conversions do exist in BellSouth's retail operations. For example, analogs would include the implementation of T&F ("To and From") orders where a customer moves from one premises to another served from the same central office. Another possible analog would be "win-backs" by the incumbent LEC. The idea that BellSouth never moves a customer from one loop to another in its own local retail operations is obviously untrue. BellSouth cannot simply assert that no BellSouth analog exists just because it is unwilling to measure and report comparative data for its own retail operations.

---

[76] *See* Stacy Performance Measurements Aff., Ex. WNS-3, Coordinated Customer Conversions Report.

[77] Stacy Performance Measurements Aff., Ex. WNS-1, p. 18.

H. Unbundled Network Element Analogs

43. BellSouth's failure to offer comparative data for its performance in doing loop cutovers for its own retail operations is one example of a broader problem. In its *Ameritech Michigan Order*, the Commission specifically concluded that BOCs must provide "comparative performance data for unbundled network elements" with their Section 271 applications.[78] The Commission stated that such comparative data should include comparisons of the BOC's performance of analogous activities or functions "even if the actual mechanism used to perform the function is different for competing carriers than for the BOC's retail operations."[79] Further, the Commission concluded that all pre-ordering and maintenance and

---

[78] *Ameritech Michigan Order*, ¶ 212 (BOCs must include "comparative performance information for unbundled network elements" with any Section 271 application sufficient to "permit comparisons" between the BOC's performance for CLECs and its performance for its own retail operations). *See also id.*, ¶¶ 139-141; *Bell Atlantic/NYNEX Merger Order*, App. C, p. 124 & App. D, Measures 3-9, 11-18 (requiring comparative performance data for unbundled network elements for all relevant ordering, provisioning and maintenance measures).

[79] *Ameritech Michigan Order*, ¶ 139. *See also Michigan PSC Order*, p. 31 ("Although exact parity of operations may not exist on the retail and wholesale operations, instances which are substantially analogous should be utilized for purposes of comparison"). This approach was also proposed by NYNEX in Section 271 hearings in New York. *See* Affidavit of Matthew J. Coffey on behalf of New York Telephone Company, filed February 14, 1997, in *In re Application to the Federal Communications Commission by New York Telephone Co. for Authority to Provide In-Region InterLATA Services in New York*, N.Y. Pub. Serv. Comm'n Case No. 97-C-0271, p. 11 ("For unbundled network elements, NYNEX New York will compare the actual performance for provisioning and maintaining unbundled elements to an interconnector to a corresponding category of service that NYNEX New York provides to its

(continued...)

repair activities for unbundled network elements have retail analogs,[80] and the Commission specifically left open the question of whether the ordering and provisioning of combinations of network elements have a retail analog.[81] For example, the Commission pointed out that where the provision of unbundled local switching involves only software changes, an appropriate comparison for parity purposes would be the interval in which the BOC changes over end users between interexchange carriers, an activity that requires a similar software change.[82]

44. Notwithstanding the Commission's clear prior statements about the need for comparative performance data for the provisioning and maintenance of unbundled network elements, BellSouth makes no attempt to provide any such comparative data with its application. Instead, BellSouth continues to take the position that no comparison to BellSouth services is possible. Consistent with this position, BellSouth's performance data for both the provisioning and the maintenance and repair of UNEs to CLECs contain comparative data only

---

[79] (...continued)
end users").

[80] *See Ameritech Michigan Order*, ¶ 140.

[81] *See id.*, n.344.

[82] *See Ameritech Michigan Order*, ¶ 141; *Local Competition Order*, ¶ 421 ("we require incumbent LECs to switch over customers for local service in the same interval as LECs currently switch end users between interexchange carriers"); 47 C.F.R. § 51.319(c)(1)(ii).

for BellSouth's general retail services and no data reflecting BellSouth's performance in providing or maintaining the same network elements for itself.

45. Without comparative performance data for analogous activities, there is simply no accurate way to determine whether the access to unbundled network elements provided to CLECs is equivalent to the access that the BOC provides to itself. To permit BellSouth to persist in its blanket refusal to provide comparative data for UNEs will only encourage its continued insistence upon convoluted, unreliable, costly and time consuming processes for supporting CLEC use of UNEs and UNE combinations. Under the guise of a claim that no analog exists, BellSouth and other incumbent LECs can subvert competition by imposing target performance levels for UNEs that have no basis in BellSouth's performance of the same activity for itself and preclude effective competition.

46. It has been AT&T's experience that there is an appropriate retail or internal analog for virtually everything that a CLEC could purchase from a BOC, whether a service for resale, an unbundled network element, or a combination of network elements. This is because a CLEC can only purchase the use of capabilities, facilities and equipment that are already part of the BOC's network, and the CLEC's ordering and provisioning requests are implemented by the BOC using work processes that the BOC already employs for the same or some similar purpose. There is reason to assume, therefore, that all but the most extraordinary CLEC request could be measured against a similar process that the BOC performs for itself or

for some group of its customers.[83] Accordingly, in the absence of strong evidence to the contrary, analogous activities should be presumed to exist for all UNE activities.

47. Where no retail or other analog truly exists, the Commission has determined that "the BOC must demonstrate that the access it provides to competing carriers satisfies its duty of nondiscrimination because it offers an efficient competitor a meaningful opportunity to compete."[84] This means that where BellSouth claims there is no appropriate internal comparison for a functionality it provides to a CLEC, it must establish an appropriate performance benchmark. Such performance benchmarks should be based on an appropriate and fully disclosed benchmark study performed by the BOC, preferably in cooperation with the CLEC, and subject to review and approval by the state commission. Part of this review should explicitly address whether, in fact, no reasonably comparable activity occurs within the BOC's operations. BellSouth includes no such performance benchmarks or benchmark studies with its application.

---

[83] Examples of such UNE analogs were submitted to the Commission with AT&T's Comments in *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, CC Docket No. 98-56 (filed June 1, 1998), Attachment F.

[84] *Ameritech Michigan Order*, ¶ 141.

I. Unbundled Network Element Combinations

48. Although BellSouth claims that it has provided performance data relating to the ordering and provisioning of unbundled network elements for CLECs, it provides no measurement of its ability to accept orders or coordinate the provisioning of unbundled network elements for combination by CLECs. The 1996 Act authorizes three different modes of competitive entry -- service resale, unbundled network elements, and interconnection -- and it specifically requires that unbundled network elements must be provided to CLECs "in a manner that allows requesting carriers to combine such elements" in order to provide telecommunications services.[85] Further, the Commission has determined that the 1996 Act precludes the BOCs from promoting or favoring any one of these entry strategies over another.[86] Accordingly, BellSouth is not permitted to influence the attractiveness of particular market entry strategies by withholding operational support or providing inadequate operational support for particular modes of entry. Thus, if a CLEC chooses to enter through the use of UNE combinations because that mode of market entry allows the CLEC to distinguish itself in the market by offering different service features or more attractive pricing, BellSouth cannot use its monopoly position to favor pure resellers and disadvantage CLECs seeking to use UNE

---

[85] 47 U.S.C. § 251(c)(3); *BellSouth South Carolina Order*, ¶ 182.

[86] *See Ameritech Michigan Order*, ¶ 133.

combinations by not providing equivalent operational support for the ordering, provisioning, repair and billing of UNE combinations.

49. To ensure compliance with these requirements, the Commission specifically required BellSouth to submit with all future applications under Section 271 "evidence to demonstrate that both individual network elements and those elements that BellSouth offers in combination can be ordered and provisioned in an efficient, accurate, and timely manner, and that its operational support systems are designed to accommodate both . . . unbundled network elements and combinations of unbundled network elements."[87] In its prior orders, the Commission also demanded proof of "BellSouth's ability to coordinate [CLEC] orders for separate unbundled network elements so that a carrier may combine them."[88] To fill these evidentiary requirements, the Commission has tentatively concluded that incumbent LECs should monitor and report their performance separately for the ordering, provisioning, and maintenance of UNE combinations.[89]

50. BellSouth concedes that its systems do not have the capability to deal with CLEC orders for UNE combinations. Thus, Mr. Stacy admits that, notwithstanding the

---

[87] *BellSouth South Carolina Order*, ¶ 146.

[88] *BellSouth South Carolina Order*, ¶ 146. *See also id.*, ¶¶ 196-97, 206.

[89] *See Performance Measurements NPRM*, App. A, pp. A2-A8, A10. *See also Texas PUC Order*, p. 11 (requiring Southwestern Bell to establish "performance measures related to the access to be offered by SWBT to enable CLECs to combine UNEs").

fact that BellSouth has been ordered by the Kentucky Public Service Commission to provide loop plus port combinations to CLECs in Kentucky, it "has not yet undertaken [the necessary systems] development" to provision or bill for such orders.[90] Moreover, although Mr. Stacy claims that CLECs are able to submit loop and port combination orders via EDI in Kentucky, all of the UNE combination orders submitted by AT&T via EDI-7 through the date of BellSouth's application were rejected by BellSouth's systems due to business rules that had not been disclosed to AT&T.[91]

51. BellSouth also offers no performance data which would enable the Commission to compare its performance in providing unbundled network elements for CLECs to combine with either its performance for its own retail operations or its performance for CLECs in providing resale services. Although BellSouth has proposed to report the results for certain ordering, provisioning, and maintenance measures broken out on the basis of "UNE design," "UNE non-design," and "UNE loop with local number portability," BellSouth has provided no data showing that it has provided CLECs with the ability to use UNE combinations on terms and conditions that provide CLECs with "a meaningful opportunity to compete."

---

[90] Stacy OSS Aff., ¶ 102.

[91] *See* Affidavit of Jay M. Bradbury.

J. Collocation

52. Although BellSouth proposes to provide three new collocation measurements that were not contained in its Louisiana SGAT, it does not in fact provide any performance data for any of those proposed measures, and there is no evidence that BellSouth presently has any mechanism in place to obtain such data. BellSouth again states only that these three measures are "under development" by BellSouth.[92] Such promises of future performance have no value in evaluating BellSouth's present Section 271 application,[93] and BellSouth's failure to report this information is another deficiency in its application.[94]

K. Provisioning Order Accuracy

53. Notwithstanding the fact that the Commission previously instructed BOCs to report their performance in provisioning orders accurately both for CLECs and for their own local retail operations;[95] the fact that the Georgia Commission specifically ordered

---

[92] *See* Stacy Performance Measurements Aff., Ex. WNS-3, May 1998 Reports, Collocation Report: Average Response Time, Average Arrangement Time & % Of Due Dates Missed, note 1.

[93] *See BellSouth South Carolina Order*, ¶ 38; *Ameritech Michigan Order*, ¶ 255.

[94] *See Performance Measurements NPRM*, ¶¶ 102-103 & p. A17 (tentatively concluding that incumbent LECs should be required to measure and report their average time to respond to collocation requests, average time to provide collocation arrangements, and percentage of collocation due dates missed).

[95] *See Ameritech Michigan Order*, ¶ 212 (requiring BOCs to report both "service order (continued...)

BellSouth to measure and report its "order accuracy" for CLECs;[96] and the fact that BellSouth itself undertook to measure and report "percent order accuracy" in its Louisiana SGAT;[97] BellSouth's application here does not include any data for that measurement. Indeed, even though BellSouth has included such data in some state filings, it has now dropped this measure entirely from the list of Service Quality Measurements submitted with its application.[98]

L. Network Performance

54. The perceived quality of CLEC services will be heavily dependent on the quality of the underlying services and network elements provided by incumbent LECs. In order to establish that network performance parity is being provided to CLECs, BellSouth should also measure and report comparative performance data for such network performance measures as transmission quality, speed of connection, call completion rate, and call

---

[95] (...continued)
accuracy" and "provisioning accuracy" so as to "permit comparisons with [the BOC's] retail operations").

[96] *See Georgia Performance Measurements Order*, pp. 19-20.

[97] *See* BellSouth's Revised Attachment I to Louisiana SGAT, attached to BellSouth's Second Section 271 Application for Louisiana at Appendix C-1, Tab 144, Service Quality Measurements, p. 15.

[98] *See* Stacy Performance Measurements Aff., Ex. WNS-1, p. 1.

blockage.[99] In its *Ameritech Michigan Order*, for example, the Commission stated that BOCs should provide comparative performance data for trunk blockage and call completion rates,[100] and in its *Bell Atlantic/NYNEX Merger Order*, the Commission specifically recognized the need for data on trunk blockage.[101] Such network performance could be based on statistically reliable samples. Although BellSouth has provided some trunk blockage information, it has not submitted any other network performance data with its application.[102]

M. Call Abandonment Rate

55. Although BellSouth reports the average time it takes for CLEC calls to be answered at BellSouth's Local Carrier Service Centers for ordering and provisioning calls and at its Repair Centers for maintenance and repair calls, BellSouth's measurements include only those CLEC calls that are answered. They do not include calls that are abandoned by the

---

[99] *See* Local Competition Users Group Parity of Performance Measures, Attachment 1, p. 2.

[100] *See Ameritech Michigan Order*, ¶¶ 224-245, 255.

[101] *See Bell Atlantic/NYNEX Merger Order*, App. D, Measures 19 & 20.

[102] BellSouth's reported trunk blockage data show poorer performance for CLECs. For example, the percentage of trunk groups which exceeded the 3% blocking threshold during their busy hours in May was 2.5% for CLECs, 0.55% for BellSouth common transport trunk groups ("CTTG"), and 1.78% for BellSouth local network trunks. *See* Stacy Performance Measurments Aff., Ex. WNS-3, Comparative Trunk Group Service Summary Report.

CLEC because there was no answer.[103] To provide a more complete picture of the quality of service provided by BellSouth, BellSouth should also monitor and report the call abandonment rates at BellSouth service and repair centers.[104] Moreover, based on the materials previously submitted by BellSouth with its Section 271 applications for South Carolina and Louisiana, BellSouth can and does measure call abandonment rates at its service centers.[105]

N. Pre-Ordering Response Times

56. Although BellSouth has submitted some performance data on pre-ordering response times, that data is incomplete. BellSouth provides CLEC pre-ordering response time data only for the LENS interface; it provides no performance data for the EC-Lite interface which it has offered to CLECs since January 1998. Further, BellSouth states that it only intends to provide this information for LENS and makes no mention of EC-Lite.

---

[103] This exclusion of abandoned calls is made explicit in BellSouth's description of its average speed of answer for operator services and directory assistance calls. *See* Stacy Performance Measurements Aff., Ex. WNS-1, p. 31.

[104] As call answer times increase, so does the rate of call abandonment. Moreover, the calls abandoned are likely to be those calls that go unanswered the longest. High call abandonment rates are thus also indicative of an understated speed of answer.

[105] *See, e.g.*, Stacy First Louisiana OSS Aff., Ex. WNS-46, p. 1.

This omission is significant because AT&T's data shows that the response times for EC-Lite are substantially longer than the response times reported by BellSouth for LENS.[106]

57. In addition, BellSouth provides no measure for the average time it takes to notify CLECs when BellSouth's systems reject a pre-ordering query. Without prompt receipt of notice that its query attempt has failed, the CLEC representative will not know whether the requested pre-ordering information is forthcoming or whether another query attempt is required. To establish that parity is being provided to CLECs in this area, the Commission has tentatively concluded that an incumbent LEC should measure and report the speed with which it provides notice of query rejections both to CLECs and to its own retail representatives.[107]

V. THE PERFORMANCE DATA SUBMITTED BY BELLSOUTH DO NOT SUPPORT ITS CONTENTION THAT PARITY IS BEING PROVIDED TO CLECS.

58. Even if BellSouth's application were complete in that it included all of the required performance measurements and all of the necessary performance data for both CLECs and BellSouth's own retail operations, that alone would not establish parity. In order

---

[106] As discussed below, BellSouth has reported response times for LENS of under two seconds for all but one type of pre-ordering query, while AT&T's performance data for EC-Lite show an average response time in June 1998 of over 14 seconds. *Compare* Stacy Performance Measurements Aff., Ex. WNS-3, Average Response Interval Report, *with* AT&T data on pre-ordering response times for EC-Lite, attached to Affidavit of Jay M. Bradbury.

[107] *See Performance Measurements NPRM*, ¶ 45 & p. A1.

to meet its burden of establishing that it is providing nondiscriminatory performance for CLECs under Section 271, BellSouth must also show that the performance data which it has collected actually supports its claim that it is providing parity of performance for CLECs.

59. The performance data submitted by BellSouth is inadequate to support its claim of parity for two reasons. First, BellSouth has not presented any methodology for determining what differences between its level of performance for CLECs and its performance for itself represent nondiscriminatory performance. Nor has BellSouth provided the information that would be required to enable others to make that determination in a statistically correct manner. Second, while no rigorous statistical analysis is possible, it is readily apparent from BellSouth's data that its performance for CLECs does not support BellSouth's claim of parity. Thus, for a number of measurements that are particularly important for competition, BellSouth's performance for its own retail operations was substantially better than its performance for CLECs.

A. BellSouth Has Failed To Identify Any Statistical Test Or Other Means For Determining Whether Parity Is Being Provided.

60. In its prior Section 271 applications for South Carolina and Louisiana, BellSouth proposed that "statistical process control" charts should be used to determine whether a given disparity between BellSouth's performance for CLECs and its performance for itself constituted discrimination under the 1996 Act or was simply a result of the variations in

performance that can be expected to arise from month to month due to a variety of factors.[108] For this purpose, BellSouth used performance data over a period of "at least six" months to establish a "safe harbor" within which its conduct would be regarded as nondiscriminatory.[109] This safe harbor was defined by upper and lower "control limits" set at three standard deviations above and below BellSouth's average performance for itself over that time.[110] That proposed statistical process control methodology was rejected as an inappropriate method to identify discrimination by both the Georgia and the Florida Commissions both as an analytical tool[111] and as applied by BellSouth.[112] What is important for present purposes, however, is

---

[108] *See, e.g.*, Stacy First Louisiana Performance Measures Aff., ¶¶ 20-24 & Ex. WNS-9 & WNS-9B.

[109] *See, e.g., id.*, ¶ 20.

[110] *See, e.g., id.*, ¶¶ 20-21.

[111] *See Georgia Performance Measurements Order*, p. 16 ("the Statistical Process Control methodology proposed by BellSouth . . . does not appear well suited to the task of measuring performance between more than one system"); Order No. PSC-97-1459-FOF-TL, issued November 19, 1997, in *Consideration of BellSouth Telecommunications Inc.'s Entry into InterLATA Services Pursuant to Section 271 of the Federal Telecommunications Act of 1996*, Docket No. 960786-TL (Fla. Pub. Serv. Comm'n) ("*Florida PSC Order*"), p. 183 ("we do not believe that BellSouth's Statistical Process Control is adequate to demonstrate nondiscrimination and parity, since the SPC is generally utilized in stable, controlled, single system manufacturing environments. . . . SPC has had limited application, if any, in the service sector. We agree with AT&T that the SPC is not adequate to compare two sets of performance data for discrimination").

[112] *See Georgia Performance Measurements Order*, p. 16 ("the three standard deviations (continued...)

that BellSouth clearly recognized in its prior applications that some statistical methodology is required in order to identify what differences in performance constitute discrimination.

61. Following the rejection of its proposed statistical process control methodology by the Georgia Commission, BellSouth abandoned that approach.[113] Rather than adopting a more appropriate methodology, however, BellSouth's present application for Louisiana contains no methodology at all. Instead, BellSouth reports only the averages or percentages that it has computed for each measurement with no analysis whatsoever as to whether particular differences are statistically significant. Further, BellSouth's application contains none of the information that would be required to perform a statistical analysis of its data, such as the standard deviation or even the sizes of the two populations being compared.

62. As the Commission has correctly found, merely "reporting averages of performance measurements alone, without further analysis," does not indicate whether measured differences in performance reflect discrimination, and may even "mask"

---

[112] (...continued)
proposed by BellSouth is too wide a range for differences in the performance of functions essential to competition"); *Florida PSC Order*, p. 183 ("We do not believe the use of three [standard deviations] is sufficiently restrictive to detect discrimination").

[113] *See* Transcript of Stacy Testimony, May 18, 1998, in *BellSouth Telecommunications, Inc.'s Entry Into Long Distance (InterLATA) Service in Tennessee Pursuant to Section 271 of the Telecommunications Act of 1996*, Docket No. 97-00309.

discrimination.[114] What is required is an appropriate statistical analysis to account for the fact that there is some inherent variability in the data being measured. As a result, two measurements may differ to a degree without the difference being significant. An appropriate statistical test allows for this measurement variability while controlling the risk of drawing an inappropriate conclusion either that there is discrimination when in fact there is none (type one error), or that there is no discrimination when in fact there is discrimination (type two error). Such statistical tests are readily available. AT&T, for example, has presented a set of appropriate statistical tests for determining whether discrimination is present in its comments in CC Docket No. 98-56,[115] and the Local Competition Users Group has published a set of statistical tests for evaluating local service parity which is presently before the Louisiana Commission.[116] The methodology contained in those documents provides a quantitative approach for determining whether a measurement result for CLECs is or is not equivalent to

---

[114] *Performance Measurements NPRM*, ¶ 34.

[115] *See* Comments of AT&T, *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance*, CC Docket No. 98-56 (filed June 1, 1998), pp. 45-57 & Attachment G (Affidavit of Dr. Colin L. Mallows).

[116] *See* Local Competition Users Group Statistical Tests for Local Service Parity, submitted as Exhibit 6 to Comments of AT&T Communications of the South Central States, Inc., *BellSouth Telecommunications, Inc. Service Quality Performance Measurements*, La. Pub. Serv. Comm'n Docket No. U-22252-Subdocket C (filed July 10, 1998).

the performance that BellSouth provides to itself. The application of such statistical tests is the only accurate and objective way to evaluate the performance data submitted by BellSouth.

63. BellSouth's subjective commentary and conclusions about its data are not an adequate substitute for an objective statistical analysis. Nor has BellSouth provided the required information to enable the Commission or CLECs to apply the necessary statistical analysis.[117] BellSouth's failure to provide any meaningful statistical analysis of its performance data precludes any finding that BellSouth is providing nondiscriminatory performance for CLECs and thus should be found to constitute a failure to satisfy its burden of proof under Section 271.

64. I am also concerned that BellSouth's proposed performance measurement plan contains no provision whatever for enforcement. BellSouth says nothing at all about what will happen if BellSouth fails to provide nondiscriminatory performance for CLECs, or even if BellSouth fails to provide the measurements that it has promised. In short, BellSouth's plan is the antithesis of the "self-executing enforcement mechanism" sufficient to ensure compliance with performance requirements that the Commission found to be in the public interest in its

[117] BellSouth should provide access to the underlying data on a disaggregated basis for the particular CLEC, for all CLECs, and for BellSouth so that the distribution shape can be assessed, means computed, and variances determined.

Ameritech Michigan decision.[118] Indeed, BellSouth has expressly conceded this fact: "It is true that BellSouth has not agreed to self-enforcing penalties."[119]

B. The Performance Data Submitted With BellSouth's Application Do Not Show That Parity Is Being Provided To CLECs.

65. While no rigorous statistical analysis of BellSouth's performance data is possible due to the absence of such information as the number of observations, distribution shape and variance, it is readily apparent from the available data for several measures that BellSouth's performance for CLECs does not support its claim of parity. Thus, for a number of the measurements which BellSouth provides, BellSouth's performance for CLECs was substantially worse than its performance for its own retail operations. Moreover, this poor performance for CLECs came despite a relatively low volume of CLEC activity which should have posed no difficulties for BellSouth's systems.

1. Pre-Ordering Response Times

66. The average response time reported by BellSouth for CLEC access to customer service record ("CSR") data using the LENS interface is about double the average

---

[118] *See Ameritech Michigan Order*, ¶ 394 ("We would be particularly interested in whether such performance monitoring includes appropriate, self-executing enforcement mechanisms that are sufficient to ensure compliance with the established performance standards").

[119] BellSouth Reply Comments on Interim Service Quality Performance Measurements, filed July 20, 1998, in *In Re: BellSouth Telecommunications, Inc. Service Quality Performance Measurements,* Louisiana Public Service Commission Docket U-22252, Subdocket C, p. 7.

response time reported for BellSouth's own retail representatives to obtain access to the same CSR data.[120] Although BellSouth attempts to explain away this discrepancy in a footnote,[121] it provides no information regarding the justification for, or the magnitude of, any of the differences that it identifies, and thus no means to gauge their appropriateness or significance.

67. Further, BellSouth's response time data for LENS are misleading because CLECs cannot simply request particular pre-ordering information from BellSouth's systems without going through a series of additional steps. For example, a CLEC cannot request access to service and feature availability information without first going through the address validation process. Similarly, while BellSouth's new "View All" option permits CLECs to avoid repetition of the address validation process with every pre-ordering query, it requires the CLEC to perform each pre-ordering step in a prescribed sequence. To the extent that a CLEC has to go through more steps or screens to obtain data than a BellSouth representative, that fact is not reflected in the pre-ordering response time data submitted by BellSouth.

---

[120] *See* Stacy Performance Measurements Aff., Ex. WNS-3, Average Response Interval Report (reporting an average response time for the return of customer service records of from 7.05 to 7.75 seconds for CLECs using LENS as compared to an average response of 3.28 to 4.27 seconds for the return of customer service records to BellSouth personnel).

[121] *See id.*, note 1.

68. In addition, BellSouth does not submit any performance data for its EC-Lite interface. This is a significant omission because performance data for EC-Lite collected by AT&T show average response times that are substantially longer than the LENS response times reported by BellSouth. Thus, for June 1998, AT&T measured an average response time for pre-ordering queries submitted via EC-Lite of over 14 seconds,[122] while BellSouth reports that the average response time for all pre-ordering queries using LENS was about 2.5 seconds.[123] BellSouth's unreported performance for the EC-Lite interface was thus nearly six times slower than the response time which BellSouth reports for LENS.

2. Firm Order Confirmation Timeliness

69. BellSouth's data for firm order confirmation timeliness show that BellSouth is continuing to miss even its overly generous 24-hour target for the return of FOCs. Although BellSouth's overall performance in returning FOCs to CLECs is obscured by the way in which BellSouth has reported its FOC performance separately for three categories of CLEC orders (those processed on a fully "mechanized" basis with no errors, orders processed

---

[122] *See* AT&T data on pre-ordering response times for EC-Lite, attached to Affidavit of Jay M. Bradbury.

[123] *See* Stacy Performance Measurements Aff., Ex. WNS-3, Average Response Interval Report (average response time for all CLEC pre-ordering queries using LENS).